REMARKS

Claims 1-21 are now in this application. Claims 1-14 are rejected. Claim 1 is amended herein to clarify the invention. Claims 15-21 are added.

Applicant herein traverses and respectfully requests reconsideration of the rejection of the claims cited in the above-referenced Office Action.

Applicant traverses the Examiner's position that the first action Final Rejection is proper. An Amendment After Final Rejection was timely filed on March 18, 2002. It is noted that applicant's counsel telephoned the Examiner on April 11, 2002 and also on April 15, 2002, to inquire about the status of this application and the Examiner indicated that such amendment was not in the file. When a first Office Action was received in which all claims were finally rejected, an interview was conducted on July 30, 2002, with the goal of having the finality of the first Office Action withdrawn. The Examiner's position was that since the amendment did not make it into the file until the RCE was submitted to the Patent Office, and because he was required to go by the written record, the first action Final Rejection was therefore proper under MPEP 706.07(h), as is reflected in the Interview Summary of August 5, 2002. It remains applicant's position that the Official Action dated July 16, 2002, should not be made Final because applicant had timely filed the Amendment After Final with a certificate of mailing date of March

18, 2002, and for some reason, not the fault of applicant, such amendment had not promptly made it into the Patent Office file.

Applicant's counsel subsequently spoke with the Examiner's supervisor, Valencia Martin-Wallace. She indicated that she would look into the matter, and voiced her agreement that if an Amendment After Final Rejection was properly filed and therefore of record, then the first Office Action should not be properly made final. Applicant has not heard back from Examiner Martin-Wallace at the time of filing of this amendment. Therefore, should it be determined subsequent to the filing of this response that the Office Action is not final, applicant respectfully requests that the amendments made herein be examined in the normal manor accorded a response to a non-final Office Action.

Claims 1-14 are rejected as obvious over Sagawa et al. (EP 0,903,169 A2) in view of Kosugi et al. (US 5,229,756) under 35 U.S.C. §103(a). The applicant herein respectfully traverses this rejection.

For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

It is respectfully submitted that a *prima facie* case of obviousness has not been established in the rejection of claims 1-14. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally

available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." MPEP §706.02(j) "Contents of a 35 U.S.C. §103 Rejection".

In accordance with the relevant disclosure of the Kosugi et al. reference pertaining to velocity, which is found at column 15, beginning at line 39, a bend angle of a player's elbow is detected by an elbow sensor 2L, 2R, and a speed (or more precisely an angular velocity) is calculated by CPU1. The signal generating device of Kosugi et al. only generates a signal indicating elbow angle, which is merely an angular position of the elbow, and not a velocity or acceleration of movement of the elbow.

In stark contrast, the invention of claim 1 clearly recites that the signal generator generates a signal which is "an indication of a change in velocity of said signal generating device being moved by said game player." Applicant notes that the term "representative" is replaced with the term --indication--, which is believed by applicant to be a more exact term which better reflects the intended meaning of the claim, i.e., that the signal is indicative of a change in speed, rather than a mere

measurement of a relative positioning from which velocity can subsequently be calculated by taking a differential of position with respect to time, and acceleration derived by taking a differential of the resultant velocity with respect to time, as taught by the cited art reference.

Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited references for the reasons stated above. Reconsideration of the rejections of claims 1-14 and their allowance are respectfully requested.

Claims 15-21 are added and are submitted as patentable over the cited art of record. Independent claims 15, 16, 20 and 21 each recites subject matter which is not believed disclosed in the cited art in the manner as claimed. Dependent claims 17-19 are patentable based on the subject matter cited therein in addition to the subject matter of claim 15.

One (1) claim in excess of twenty is added. Two (2) further independent claims in excess of three are added. Accordingly, please charge the fee of $186 to Deposit Account No. 10-1250. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Applicant respectfully requests a two (2) month extension of time for responding to the Office Action. Please charge the fee of $400 for the extension of time to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,
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